

109TH CONGRESS
1ST SESSION

H. R. 2903

To provide protection, conservation, and restoration of the wetlands, estuaries, barrier islands, and related land and features in the Louisiana coastal area, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 2005

Mr. BAKER (for himself, Mr. McCRERY, Mr. JEFFERSON, Mr. ALEXANDER, Mr. JINDAL, Mr. BOUSTANY, and Mr. MELANCON) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To provide protection, conservation, and restoration of the wetlands, estuaries, barrier islands, and related land and features in the Louisiana coastal area, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. DEFINITIONS.**

4 In this Act, the following definitions apply:

5 (1) COASTAL LOUISIANA ECOSYSTEM.—The
6 term “coastal Louisiana ecosystem” means the
7 coastal area of Louisiana from the Sabine River on

1 the west and the Pearl River on the east, including
2 those parts of the Deltaic Plain and the Chenier
3 Plain included within the study area of the Plan.

4 (2) GOVERNOR.—The term “Governor” means
5 the Governor of the State of Louisiana.

6 (3) PLAN.—The term “Plan” means the report
7 of the Chief of Engineers for ecosystem restoration
8 for the Louisiana Coastal Area dated January 31,
9 2005.

10 (4) TASK FORCE.—The term “Task Force”
11 means the Coastal Louisiana Ecosystem Protection
12 and Restoration Task Force established by section
13 3.

14 **SEC. 2. ADDITIONAL REPORTS.**

15 (a) MISSISSIPPI RIVER GULF OUTLET.—Not later
16 than one year after the date of enactment of this Act, the
17 Secretary of the Army shall submit to Congress a report
18 recommending modifications to the Mississippi River Gulf
19 Outlet to address navigation, salt water intrusion, channel
20 bank erosion, mitigation, and threats to life and property.

21 (b) BARATARIA-TERREBONE ESTUARY.—Not later
22 than July 1, 2006, the Secretary shall submit to Congress
23 a report recommending a plan to restore the Barataria-
24 Terrebonne Estuary, Louisiana.

1 (c) CHENIER PLAIN.—Not later than July 1, 2006,
2 the Secretary shall submit to Congress a report recom-
3 mending near-term ecosystem restoration measures for the
4 Chenier Plain, Louisiana.

5 (d) LONG-TERM PLAN.—

6 (1) COMPREHENSIVE FRAMEWORK.—Not later
7 than one year after the date of enactment of this
8 section, the Secretary shall submit to Congress a
9 recommended framework for developing a long-term
10 program that provides for the comprehensive protec-
11 tion, conservation, and restoration of the wetlands,
12 estuaries, barrier islands, and related land and fea-
13 tures that protect critical resources, habitat, and in-
14 frastructure in the coastal Louisiana ecosystem from
15 the impacts of coastal storms, hurricanes, erosion,
16 and subsidence.

17 (2) CONSIDERATION.—In developing the rec-
18 ommended framework, the Secretary shall consider
19 integrating other Federal or State projects or activi-
20 ties within the coastal Louisiana ecosystem into the
21 long-term restoration program.

22 (3) COMPREHENSIVE PLAN.—

23 (A) DEADLINE.—Not later than five years
24 after the date of enactment of this Act, the Sec-
25 retary shall submit to Congress a feasibility

1 study recommending a comprehensive, long-
2 term, plan for the protection, conservation, and
3 restoration of the coastal Louisiana ecosystem.

4 (B) INTEGRATION.—The comprehensive,
5 long-term, plan shall include recommendations
6 for the integration of ongoing Federal and
7 State projects and activities, including projects
8 and activities being carried out under the
9 Coastal Wetlands Planning, Protection and
10 Restoration Act (16 U.S.C. 3951 et seq.), the
11 Louisiana coastal wetlands conservation plan,
12 the Louisiana coastal zone management plan,
13 and the plan of the State of Louisiana entitled
14 “Coast 2050: Toward a Sustainable Coastal
15 Louisiana”.

16 **SEC. 3. COASTAL LOUISIANA ECOSYSTEM PROTECTION**
17 **AND RESTORATION TASK FORCE.**

18 (a) ESTABLISHMENT AND MEMBERSHIP.—There is
19 established the Coastal Louisiana Ecosystem Protection
20 and Restoration Task Force, which shall consist of the fol-
21 lowing members (or, in the case of the head of a Federal
22 agency, a designee at the level of Assistant Secretary or
23 an equivalent level):

24 (1) The Secretary of the Army.

25 (2) The Secretary of the Interior.

1 (3) The Secretary of Commerce.

2 (4) The Administrator of the Environmental
3 Protection Agency.

4 (5) The Secretary of Agriculture.

5 (6) The Secretary of Transportation.

6 (7) The Secretary of Energy.

7 (8) The Director of the Federal Emergency
8 Management Agency.

9 (9) The Commandant of the Coast Guard.

10 (10) The Coastal Advisor to the Governor.

11 (11) The Secretary of the Louisiana Depart-
12 ment of Natural Resources.

13 (12) A representative of the Louisiana Gov-
14 ernor's Advisory Commission on Coastal Restoration
15 and Conservation.

16 (b) DUTIES OF TASK FORCE.—The Task Force
17 shall—

18 (1) make recommendations to the Secretary of
19 the Army regarding policies, strategies, plans, pro-
20 grams, projects, and activities for addressing protec-
21 tion, conservation, and restoration of the coastal
22 Louisiana ecosystem;

23 (2) prepare financial plans for each of the agen-
24 cies represented on the Task Force for funds pro-
25 posed for the protection, conservation, and restora-

1 tion of the coastal Louisiana ecosystem under au-
2 thorities of each agency, including—

3 (A) recommendations that identify funds
4 from current agency missions and budgets; and

5 (B) recommendations for coordinating in-
6 dividual agency budget requests; and

7 (3) submit to Congress a biennial report that
8 summarizes the activities of the Task Force and
9 progress towards the purposes set forth in section
10 2(d)(1).

11 (c) PROCEDURES AND ADVICE.—The Task Force
12 shall—

13 (1) implement procedures to facilitate public
14 participation with regard to Task Force activities,
15 including—

16 (A) providing advance notice of meetings;

17 (B) providing adequate opportunity for
18 public input and comment;

19 (C) maintaining appropriate records; and

20 (D) making a record of proceedings avail-
21 able for public inspection; and

22 (2) establish such working groups as are nec-
23 essary to assist the Task Force in carrying out its
24 duties.

1 (d) COMPENSATION.—Members of the Task Force or
2 any associated working group may not receive compensa-
3 tion for their services as members of the Task Force or
4 working group.

5 (e) TRAVEL EXPENSES.—Travel expenses incurred
6 by members of the Task Force, or members of an associ-
7 ated working group, in the performance of their service
8 on the Task Force or working group shall be paid by the
9 agency or entity that the member represents.

10 **SEC. 4. INVESTIGATIONS.**

11 (a) IN GENERAL.—The Secretary of the Army shall
12 conduct feasibility studies for future authorization and
13 large-scale studies substantially in accordance with the
14 Plan at a total cost \$130,000,000.

15 (b) EXISTING FEDERALLY AUTHORIZED WATER RE-
16 SOURCES PROJECTS.—

17 (1) IN GENERAL.—The Secretary shall review
18 existing federally authorized water resources projects
19 in the coastal Louisiana ecosystem in order to deter-
20 mine their consistency with the purposes of this sec-
21 tion and whether the projects have the potential to
22 contribute to ecosystem restoration through revised
23 operations or modified project features.

24 (2) FUNDING.—There is authorized to be ap-
25 propriated \$10,000,000 to carry out this subsection.

1 **SEC. 5. CONSTRUCTION.**

2 (a) COASTAL LOUISIANA ECOSYSTEM PROGRAM.—

3 (1) IN GENERAL.—The Secretary of the Army
4 shall carry out a coastal Louisiana ecosystem pro-
5 gram substantially in accordance with the Plan, at
6 a total cost of \$50,000,000.

7 (2) OBJECTIVES.—The objectives of the pro-
8 gram shall be to—

9 (A) identify uncertainties about the phys-
10 ical, chemical, geological, biological, and cul-
11 tural baseline conditions in the coastal Lou-
12 isiana ecosystem;

13 (B) improve the State of knowledge of the
14 physical, chemical, geological, biological, and
15 cultural baseline conditions in the coastal Lou-
16 isiana ecosystem; and

17 (C) identify and develop technologies, mod-
18 els, and methods that could be useful in car-
19 rying out the purposes of this Act.

20 (3) WORKING GROUPS.—The Secretary may es-
21 tablish such working groups as are necessary to as-
22 sist in carrying out this subsection.

23 (4) PROCEDURES AND ADVICE.—In carrying
24 out this subsection, the Secretary is authorized to
25 enter into contracts and cooperative agreements with
26 scientific and engineering experts in the restoration

1 of aquatic and marine ecosystems, including a con-
2 sortium of academic institutions in Louisiana and
3 Mississippi for coastal restoration and enhancement
4 through science and technology.

5 (b) DEMONSTRATION PROJECTS.—

6 (1) IN GENERAL.—Subject to paragraphs (2)
7 and (3), the Secretary may carry out projects sub-
8 stantially in accordance with the Plan for the pur-
9 pose of resolving critical areas of scientific or tech-
10 nological uncertainty related to the implementation
11 of the comprehensive plan to be developed under sec-
12 tion 2(d)(3).

13 (2) MAXIMUM COST.—

14 (A) TOTAL COST.—The total cost for plan-
15 ning, design, and construction of all demonstra-
16 tion projects under this subsection shall not ex-
17 ceed \$100,000,000.

18 (B) INDIVIDUAL PROJECT.—The total cost
19 of an individual demonstration project under
20 this subsection shall not exceed \$25,000,000.

21 (c) INITIAL PROJECTS.—The Secretary is authorized
22 to carry out the following projects substantially in accord-
23 ance with the Plan:

24 (1) Mississippi River Gulf Outlet Environ-
25 mental Restoration at a total cost of \$105,300,000.

1 (2) Small Diversion at Hope Canal at a total
2 cost of \$68,600,000.

3 (3) Barataria Basin Barrier Shoreline Restora-
4 tion at a total cost of \$242,600,000.

5 (4) Small Bayou Lafourche Reintroduction at a
6 total cost of \$133,500,000.

7 (5) Medium Diversion at Myrtle Grove with
8 Dedicated Dredging at a total cost of \$278,300,000.

9 (d) BENEFICIAL USE OF DREDGED MATERIAL.—The
10 Secretary shall implement in the coastal Louisiana eco-
11 system substantially in accordance with the Plan a pro-
12 gram for the beneficial use of material dredged from feder-
13 ally maintained waterways at a total cost of \$100,000,000.

14 **SEC. 6. NON-FEDERAL COST SHARE.**

15 (a) CREDIT.—The Secretary of the Army shall credit
16 toward the non-Federal share of the cost of a project au-
17 thorized by section 5(c) the cost of work carried out in
18 the coastal Louisiana ecosystem by the non-Federal inter-
19 est before the date of the partnership agreement for the
20 project if the Secretary determines that the work is inte-
21 gral to the project.

22 (b) TREATMENT OF CREDIT BETWEEN PROJECTS.—
23 Any credit provided under this section toward the non-
24 Federal share of the cost of a project authorized by section

1 5(c) may be applied toward the non-Federal share of the
2 cost of any other project authorized by section 5(c).

3 (c) PERIODIC MONITORING.—

4 (1) IN GENERAL.—To ensure that the contribu-
5 tions of the non-Federal interest equal the non-Fed-
6 eral share of the cost of a project authorized by sec-
7 tion 5(c), during each 5-year period beginning after
8 the date of commencement of construction of the
9 first project under section 5(c), the Secretary
10 shall—

11 (A) monitor the non-Federal provision for
12 each project authorized by section 5(c) of cash,
13 in-kind services and materials, and land, ease-
14 ments, rights-of-way, relocations, and disposal
15 areas; and

16 (B) manage, to the extent practicable, the
17 requirement of the non-Federal interest to pro-
18 vide for each such project cash, in-kind services
19 and materials, and land, easements, rights-of-
20 way, relocations, and disposal areas.

21 (2) OTHER MONITORING.—The Secretary shall
22 conduct monitoring separately for the construction
23 phase, the preconstruction engineering and design
24 phase, and the planning phase for each project au-
25 thorized on or after date of enactment of this Act

1 for all or any portion of the coastal Louisiana eco-
2 system (including each project authorized by section
3 5(c)).

4 (d) AUDITS.—Credit for land, easements, rights-of-
5 way, relocations, and disposal areas (including land value
6 and incidental costs) provided under this section, and the
7 cost of work provided under this section, shall be subject
8 to audit by the Secretary.

9 **SEC. 7. PROJECT JUSTIFICATION.**

10 (a) IN GENERAL.—Notwithstanding section 209 of
11 the Flood Control Act of 1970 (42 U.S.C. 1962–2) or any
12 other provision of law, in carrying out any project or activ-
13 ity authorized by or under this Act or any other provision
14 of law to protect, conserve, and restore the coastal Lou-
15 isiana ecosystem, the Secretary of the Army may deter-
16 mine that—

17 (1) the project or activity is justified by the en-
18 vironmental benefits derived by the coastal Lou-
19 isiana ecosystem; and

20 (2) no further economic justification for the
21 project or activity is required if the Secretary deter-
22 mines that the project or activity is cost effective.

23 (b) LIMITATION ON APPLICABILITY.—Subsection (a)
24 shall not apply to any separable element intended to
25 produce benefits that are predominantly unrelated to the

1 protection, conservation, and restoration of the coastal
2 Louisiana ecosystem.

3 **SEC. 8. STATUTORY CONSTRUCTION.**

4 (a) EXISTING AUTHORITY.—Except as otherwise pro-
5 vided in this Act, nothing in this Act affects any authority
6 in effect on the date of enactment of this Act, or any re-
7 quirement relating to the participation in protection, con-
8 servation, and restoration projects and activities in the
9 coastal Louisiana ecosystem, including projects and activi-
10 ties referred to in subsection (a) of—

- 11 (1) the Department of the Army;
- 12 (2) the Department of the Interior;
- 13 (3) the Department of Commerce;
- 14 (4) the Environmental Protection Agency;
- 15 (5) the Department of Agriculture;
- 16 (6) the Department of Transportation;
- 17 (7) the Department of Energy;
- 18 (8) the Federal Emergency Management Agen-
19 cy;
- 20 (9) the Coast Guard; and
- 21 (10) the State of Louisiana.

22 (b) NEW AUTHORITY.—Nothing in this Act confers
23 any new regulatory authority on any Federal or non-Fed-

1 eral entity that carries out any project or activity author-
2 ized by or under this Act.

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